13.8193.02000

Sixty-third
Legislative Assembly
of North Dakota

SENATE BILL NO. 2151
with House Amendments
SENATE BILL NO. 2151

Introduced by

Senators J. Lee, Carlisle, O'Connell

Representatives B. Koppelman, Streyle, Delmore

A BILL for an Act to provide for regulation of scrap metal purchases by scrap metal dealers; to provide a penalty; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Alloy" means a combination of a metal and carbon or other metals.
2. "Business records" means records of any purchase or transaction that involves the receipt of scrap metals made in the ordinary course of business and includes written receipts, books or similar records, or electronically stored records, but does not include correspondence, tax returns, or financial statements.
3. "Ferrous metals" means those metals that will attract a magnet, and includes alloys of those metals.
4. "Law enforcement officer" or "peace officer" means a public servant authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law.
5. "Nonferrous metals" means those metals that will not normally attract a magnet, including copper, brass, aluminum, bronze, lead, zinc, platinum, nickel, and includes alloys of those metals.
6. "Scrap metal" means ferrous or nonferrous metals purchased primarily for reuse or recycling, including metals combined with other materials at the time of purchase or acquisition, and including insulated and uninsulated wire and cable. Scrap metal does not include automobiles, automobile hulks, or any aluminum food or beverage containers.

7. "Scrap metal dealer" means a person, as defined in subsection 8 of section 1-01-49, engaged in the business of purchasing, selling, trading, or bartering scrap metal, and includes all employees of the scrap metal dealer.

SECTION 2.

Records of purchase, trade, barter, or transaction required.

1. Every scrap metal dealer shall keep business records of any purchase, trade, barter, or other transaction that involves the receipt of scrap metals worth over twenty-five dollars. The business records must include the following information:
   a. The date, time, and place of each purchase or transaction;
   b. A description of the scrap metal received and the weight and type of scrap metal received;
   c. The amount paid to the person selling or delivering the scrap metal, and the manner of payment, including check or electronic transfer;
   d. The name and address of the person selling or delivering the scrap metal; and
   e. A photocopy of a valid government-issued identification card or driver's license and which must include the seller's or deliverer's full name, photograph, date of birth, and signature.
2. Every scrap metal dealer shall keep the business records required under this section at the business premises of the scrap metal dealer or other reasonably available location within this state for seven years after the date of each purchase or transaction for which business records are required under this section.
3. A scrap metal dealer may not pay cash for scrap metal purchases or transactions over one thousand dollars, but may only pay by check or electronic transfer.
4. Each scrap metal dealer's premises must be kept open during regular business hours for inspection by a law enforcement officer and each scrap metal dealer's business records and business inventory must be made available for inspection by a law enforcement officer at all times during reasonable business hours or at reasonable times if ordinary hours of business are not kept.
5. Before a law enforcement officer may conduct an inspection under this section, the law enforcement officer shall inform the scrap metal dealer that the individual is a law enforcement officer and shall inform the scrap metal dealer of the purpose of the

inspection. The law enforcement officer shall comply with all reasonable and customary safety requirements of the scrap metal dealer on the business premises.

6. The scrap metal dealer may require a law enforcement officer to sign an inspection log that includes the officer's name and serial or badge number and the date, time, and purpose for the inspection.

7. The provisions of this chapter shall take precedence over and supersede any local ordinance adopted by a political subdivision that regulates scrap metal transactions.

SECTION 3.

Exemptions.

Section 2 of this Act does not apply to:

1. Purchases from another scrap metal dealer who regularly conducts scrap metal business in this state.

2. Purchases from government agencies.

3. Purchases from persons regularly engaged in the business of manufacturing metals or regularly engaged in the business of selling metals at retail or wholesale, including scrap processing or manufacturing that produces byproducts for scrap.

4. Purchases from persons regularly engaged in the generation or transmission of electricity, or in telephone, telegraph, or cable communications, if the person provides the scrap metal dealer with a bill of sale or other written evidence of ownership of the scrap metal purchased from the person.

SECTION 4.

Penalty.

1. A scrap metal dealer who willfully fails to comply with section 2 of this Act is guilty of a class B misdemeanor.

2. A scrap metal dealer who willfully buys, receives, possesses, or conceals stolen scrap metal, and the scrap metal is less than five hundred dollars in value is guilty of a class A misdemeanor.

3. A scrap metal dealer who willfully buys, receives, possesses, or conceals stolen scrap metal, and the scrap metal exceeds five hundred dollars in value, is guilty of a class C felony.

SECTION 5. EFFECTIVE DATE. This Act becomes effective on May 1, 2013.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.